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United States Department of Agriculture

Federal Grain Inspection Service

United States Grain Standards Act, as Amended

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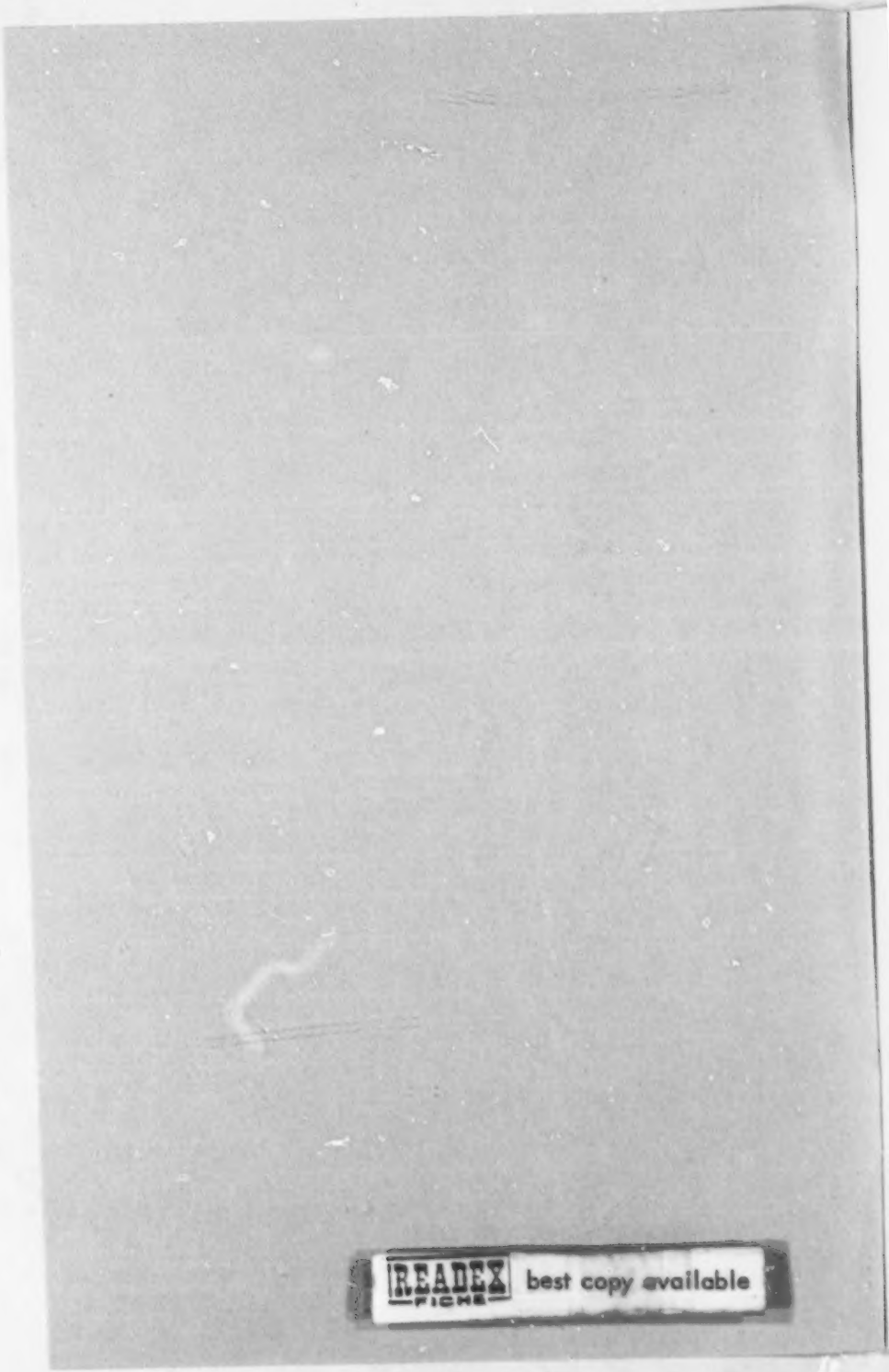
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UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL GRAIN INSPECTION SERVICE

UNITED STATES GRAIN STANDARDS ACT AS AMENDED

July 18,1940
Aug. 1,1956
July 11, 1958
Aug. 15, 1968
Oct. 21, 1976
Sept. 29, 1977
Oct. 13, 1980
Aug. 13, 1981
Dec. 22, 1981

Revised June 1982

UNITED STATES DEPARTMENT OF AGRICULTURE
FEDERAL GRAIN INSPECTION SERVICE

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United States Grain Standards Act (As Amended)

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UNITED STATES GRAIN STANDARDS ACT AS AMENDED

To provide for United States standards and a national inspection and weighing system for grain and for other purposes.

(39 Stat. 482; as amended July 18, 1940 (54 Stat. 765); Aug. 1, 1956 (70 Stat. 780); July 11, 1958 (72 Stat. 352); Aug. 15, 1968 (82 Stat. 761); Oct. 21, 1976 (90 Stat. 2867); Sept. 29, 1977 (91 Stat. 1024); Oct. 13, 1980 (94 Stat. 1980); Aug. 13, 1981 (95 Stat. 357); and Dec. 22, 1981 (95 Stat. 1213). (7 U.S.C. 71, 74-79, 79a and 79b, 84-87, and 87a-87i)

SHORT TITLE

(7 U.S.C. 71).

Sec. 1. This Act may be cited as the "United States Grain Standards Act."

DECLARATION OF POLICY

(7 U.S.C. 74).

Congressional policy.

Sec. 2. Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided; with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this Act is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.

DEFINITIONS

(7 U.S.C. 75).

Sec. 3. When used in this Act, except where the context requires otherwise—

Terms defined.

(a) the term *"Secretary"* means the Secretary of Agriculture of the United States or his delegates;

(b) the term *"Department of Agriculture"* means the United States Department of Agriculture;

(c) the term *"person"* means any individual, partnership, corporation, association, or other business entity;

(d) the term *"United States"* means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

Terms defined.

(e) the term *"State"* means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term *"interstate or foreign commerce"* means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term *"grain"* means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of this Act;

(h) the term *"export grain"* means grain for shipment from the United States to any place outside thereof;

(i) the term *"official inspection"* means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain, under standards provided for in this Act; or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Administrator under this Act (the term *"officially inspected"* shall be construed accordingly);

(j) the term *"official inspection personnel"* means persons licensed or otherwise authorized by the Administrator pursuant to section 8 of this Act to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;

(k) the term *"official mark"* means any symbol prescribed by regulations of the Administrator to show the official determination of official inspection or official weighing;

(l) the term *"official grade designation"* means a numerical or sample grade designation, specified in the standards relating to kind, class, quality, and condition of grain provided for in this Act;

(m) the term *"official agency"* means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 7 of this Act for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 7A of this Act for the conduct of official weighing or supervision of weighing (other than appeal weighing);

(n) the terms *"official certificate"* and *"official form"* mean, respectively, a certificate or other form prescribed by regulations of the Administrator under this Act;

(o) the term *"official sample"* means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term *"official sampling"* shall be construed accordingly);

(p) the term *"submitted sample"* means a sample submitted by or for an interested person for official inspection, other than an official sample; Terms defined.

(q) the term *"lot"* means a specific quantity of grain identified as such;

(r) the term *"interested person"* means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb *"ship"* with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

(t) the terms *"false," "incorrect,"* and *"misleading"* mean, respectively, false, incorrect, and misleading in any particular;

(u) the term *"deceptive loading, handling, weighing, or sampling"* means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Administrator under this Act;

(v) the term *"export elevator"* means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Administrator, from which grain is shipped from the United States to an area outside thereof;

(w) the term *"export port location"* means a commonly recognized port of export in the United States or Canada, as determined by the Administrator, from which grain produced in the United States is shipped to any place outside the United States;

(x) the term *"official weighing"* means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this Act, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms *"officially weigh"* and *"officially weighed"* shall be construed accordingly);

(y) the term "supervision of weighing" means such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance;

(z) the term "Administrator" means the Administrator of the Federal Grain Inspection Service or his delegates;

(aa) the term "service" means the Federal Grain Inspection Service; and

(bb) the term "intracompany shipment" means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.

(7 U.S.C. 75a).

FEDERAL GRAIN INSPECTION SERVICE

Establishment.

Sec. 3A. There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this Act and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this Act. The Secretary may delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture. Notwithstanding any other provision of law, the Secretary is authorized to appoint four individuals to positions at grade 16 of the General Schedule, in the Service.

(7 U.S.C. 76).

STANDARDS

Inspection.

Weighing

Sec. 4. (a) The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

Rulemaking.

One-year provision.

(b) Before establishing, amending, or revoking any standards under this Act, the Administrator shall publish notice of the proposal and give interested persons opportunity to submit data, views and arguments thereon and, upon request, an opportunity to present data, views and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner.

(7 U.S.C. 77).

OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

Mandatory inspection and weighing of export grain.

Sec. 5. (a) Whenever standards or procedures are effective under section 4 of this Act for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and offi-

cially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards or procedures, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided,* That the Administrator may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this Act: *Provided further,* That the Administrator shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment;

Sampling requirements.

(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedure: *Provided,* That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and

Mandatory weighing.

(3) except as otherwise authorized by the Administrator, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

Dual certification.

(b) All official inspection and official weighing, whether performed by authorized Service employees or any other person licensed under section 8 of this Act, shall be supervised by representatives of the Administrator, in accordance with such regulations as he may provide.

Supervision.

REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

(7 U.S.C. 78).

Sec. 6. (a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 4 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided,* That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by

Use of official grade designation.

Exception for brand names and trademarks.

the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

Prohibited description.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

(7 U.S.C. 79).

OFFICIAL INSPECTION AUTHORITY

Mandatory inspection.

Sec. 7. (a) The Administrator is authorized to cause official inspection under the standards provided for in section 4 of this Act to be made of all grain required to be officially inspected as provided in section 5 of this Act, in accordance with such regulations as he may prescribe.

Permissive inspection.

(b) The Administrator is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 4 of this Act, or, upon request of the interested person, under other criteria approved by the Administrator for determining the kind, class, quality, or condition of grain, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 2 of this Act.

Other criteria.

Reinspections and appeal inspections.

(c) The regulations prescribed by the Administrator under this Act shall include provisions for reinspections and appeal inspections; cancellation and surrender of certificates superseded by reinspections and appeal inspections; and the use of standard forms for official certificates. The Administrator may provide by regulation that samples obtained by or for employees of the Service for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).

Disposition of samples.

Admissibility of certificates.

(d) Official certificates setting out the results of official inspection issued and not canceled under this Act shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

Inspections at export port locations.

(e)(1) Except as otherwise provided in paragraph (2) of this subsection, the Administrator shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this Act, to be performed by official inspection personnel employed by the Service or other persons under contract with the Service as provided in section 8 of this Act.

Delegation and revocation.

(2) If the Administrator determines, pursuant to paragraph (3) of this subsection, that a State agency is qualified to perform official inspection, meets the criteria in subsection (f)(1)(A) of this section, and (A) was performing official inspection at an export port location under this Act on July 1, 1976, or (B)(i) performed official inspection at an export port location at any time prior to July 1, 1976, (ii) was designated under subsection (f) of this section on the date of enactment of the Agriculture and Food

Act of 1981 to perform official inspections at locations other than export port locations, and (iii) operates in a State from which total annual exports of grain do not exceed, as determined by the Administrator, 5 per centum of the total amount of grain exported from the United States annually, the Administrator may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing.

Qualification determination.

(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Administrator shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Administrator shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the General Accounting Office.

Consultation, review.

Inspection of export grain at interior locations.

(4) The Administrator may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Administrator determines will best meet the objectives of this Act.

Designation.

(f)(1) With respect to official inspections other than at export port locations, the Administrator is authorized, upon application by any State or local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Administrator determines official inspection is needed, if—

Conditions.

(A) the agency or person shows to the satisfaction of the Administrator that such agency or person—

(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

(iii) will meet training requirements and personnel standards established by the Administrator under section 8(g) of this Act;

(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will pro-

vide official inspection in accordance with this Act and the regulations and instructions thereunder;

(v) will not charge official inspection fees that are discriminatory or unreasonable;

(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation or other agricultural programs operated by the State or local governmental agency;

(vii) and any related entities do not have a conflict of interest prohibited by section 11 of this Act;

(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Administrator may require by regulation;

(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

(x) will comply with all provisions of this Act and the regulations and instructions thereunder; and

(xi) meets other criteria established in regulations issued under this Act relating to official functions under this Act; and

(B) the Administrator determines that the applicant is better able than any other applicant to provide official inspection service.

Limitation.

(2) Not more than one official agency or State delegated authority pursuant to subsection (e) (2) of this section for carrying out the inspection provisions of this Act shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 2 of this Act.

Inspection restrictions.

(3) Except as authorized by the Administrator, no official agency or State delegated authority pursuant to subsection (e) (2) of this section shall officially inspect under this Act any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Administrator at the time such sample is drawn.

Delegation or designation requirement.

(4) No State or local governmental agency or person shall provide any official inspection for the purposes of this Act except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 8(a) of this Act.

Termination and renewal.

(g)(1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsection (f) of this section.

(2) A designation of an official agency may be amended at any time upon application by the official agency if the Administrator determines that the amendment will be consistent with the provisions and objectives of this Act; and a designation will be canceled upon request by the official agency with ninety days written notice to the Administrator. A fee as prescribed by regulations of the Administrator shall be paid by the official agency to the Administrator for each such amendment, to cover the costs incurred by the Service in connection therewith, and it shall be deposited in the fund created in subsection (i) of this section.

Amendment or cancellation.

Fees for amendments.

(3) The Administrator may revoke a designation of an offficial agency whenever, after opportunity for hearing is afforded the agency, the Administrator determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this Act for the performance of official functions, or otherwise has not complied with any provision of this Act or any regulation prescribed or instruction issued to such agency under this Act, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Administrator may, without first affording the official agency an opportunity for a hearing, suspend any designation pending final determination of the proceeding whenever the Administrator has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

Revocation, suspension, hearing.

(h) If the Administrator determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an export port location) where the Administrator determines such inspection is needed to effectuate the objectives stated in section 2 of this Act, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Service, and other persons licensed by the Administrator to perform official inspection functions, as provided in section 8 of this Act, until such time as the service can be provided on a regular basis by an official agency.

Interim authority.

(i) The Administrator is authorized to cause official inspection under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection. All or specified functions of such inspections shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Canadian agreement.

(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after tak-

Fees.

Revolving fund.

ing into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of offical inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

(7 U.S.C. 85, 86,87c).

(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

Overdue fee.

Interest rate.

(7 U.S.C. 79a).

WEIGHING AUTHORITY

Mandatory weighing.

Sec. 7A. (a) The Administrator shall cause official weighing under standards or procedures provided for in section 4 of this Act to be made of all grain required to be officially weighed as provided in section 5 of this Act, in accordance with such regulations as the Administrator may prescribe.

Weighing at inspection locations.

(b) The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures provided in section 4 of this Act to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export elevators at export port locations at which official inspection is provided pursuant to the provisions of this Act, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

Service inspection and weighing.

(c)(1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Service, the Administrator shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service.

Delegation and designation.

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official weighing or supervision of weighing to the State agency providing official inspection service at such location,

and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform official weighing or supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 7 of this Act, except that where the term *"official inspection"* is used in such section it shall be deemed to refer to *"official weighing or supervision of weighing"* under this section. If such agency or person is not available to perform such weighing services, or the Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export port locations official weighing or supervision of weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State of local governmental agency, or any person to perform official weighing or supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 7 of this Act, except that where the term *"official inspection"* is used in such section it shall be deemed to refer to official weighing or *"supervision of weighing"* under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 7 of this Act.

Optional arrangements.

Termination, suspension, revocation.

(d) The Administrator is authorized to cause official weighing under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing. All or specified functions of such weighing shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Canadian agreement.

(e) The Administrator is further authorized to cause official weighing or supervision of weighing under standards or procedures provided for in section 4 of this Act to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as he may prescribe.

Weighing at non-inspection locations.

(f) No official weighing or supervision of weighing shall be provided for the purpose of this Act at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Administrator that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Administrator; (2) will permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this Act; (3) when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales in accordance with the regulations of the Administrator and to require that each lot of grain delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of

Conditions for weighing service.

grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this Act; and (5) will comply with all other requirements of this Act and the regulations hereunder.

Admissibility of certificates.

(g) Official certificates setting out the results of official weighing or supervision of weighing, issued and not canceled under this Act, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

Adherence to procedures.

(h) No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

Valid delegation, designation.

(i) No State or local governmental agency or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this Act except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section.

Limitation on number of agencies.

Not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this Act shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 2 of this Act.

U.S. Warehouse Act.

(j) The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

Access to facilities.

(k) The representatives of the Administrator shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

Fees.

(l)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees auhorized by this paragraph shall, as nearly as practicable, cover the costs of the service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

Revolving funds.

(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel

of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g) (3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eight of 1 per centum.

TESTING OF EQUIPMENT

(7 U.S.C. 79b).

Sec. 7B. (a) The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this Act, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment. Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of such testing by employees of the Service. Such fees shall be deposited into the fund created by section 7 (j) of this Act.

Fees.

(b) The Administrator is authorized to cause such testing provided for in subsection (a) to be performed (1) by personnel employed by the Service, or (2) by States, political subdivisions thereof, or persons under the supervision of the Administrator, under such regulations as the Administrator may prescribe.

Authorization.

(c) Notwithstanding any other provision of law, no person shall use for the purposes of this Act any such equipment not approved by the Administrator.

Restrictions.

LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

(7 U.S.C. 79c).

Sec. 7C. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1982 through 1984 shall not exceed 35 per centum of the total costs for such activities carried out by the Service for such year.

(7 U.S.C. 84).

LICENSES AND AUTHORIZATIONS

Conditions.

Sec. 8. (a) The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 7 or 7A of this Act, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing, other than appeal weighing, of grain in the United States; (2) to authorize any competent employee of the Service to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this Act; (3) to contract with any person or governmental agency to perform specified sampling, laboratory testing, and similar technical functions and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this Act. No person shall perform any official inspection or weighing function for purposes of this Act unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this Act.

Authorizations.

Contracts.

Monitoring.

License or authorization required.

Termination.

(b) All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Adminstrator: *Provided,* That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this Act or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: *Provided further,* That subject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this Act or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

Suspension.

Reinstatement.

Examinations.

(c) The Administrator may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Service, to perform any official inspection or weighing function under this Act.

Non-Federal employees acting for U.S.

(d) Persons employed by an official agency (including persons employed by a State agency under a delegation of authority pursuant to this Act) and persons performing official inspection functions under contract with the Service shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided,* That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing

function as prescribed by this Act or by the rules and regulations of the Administrator, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18 of the United States Code, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.

Civil Service exemptions.

(e) The Administrator may hire (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of the United States Grain Standards Act of 1976) to perform functions of official inspection under the United States Standards Act and as personnel to perform supervisory weighing or official weighing functions any individual who, on the date of enactment of the United States Grain Standards Act of 1976, was performing similar functions: *Provided,* That the Standards Act of 1976, was performing similar functions: *Provided,* That the Administrator determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned. The Administrator may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5 of the United States Code.

Conditions.

Exception to rate of compensation.

Personnel rotation.

(f) The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection and weighing system provided by this Act.

Personnel standards.

(g) The Administrator shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Service, all State agencies under delegation of authority pursuant to this Act, and all official agencies and all persons licensed or authorized to perform functions under this Act: *Provided,* That persons licensed or authorized on the date of enactment of the United States Grain Standards Act of 1976 to perform any official function under this Act, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Administrator determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Administrator deems necessary.

Exemptions.

REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION OF LICENSES

(7 U.S.C. 85).

Causes for action.

Sec. 9. The Administrator may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Administrator shall determine that such licensee is incompetent, or has inspected or weighed or supervised the weighing of grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected or weighed or supervised the weighing of grain improperly under this Act, or has accepted any money or other consideration, directly or indirectly, for any neglect or

improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the regulations prescribed or instructions issued to him by the Administrator under this Act. The Administrator may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Administrator deems such action to be in the best interest of the official inspection system under this Act. The Administrator may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 13 of this Act or convicted of any offense proscribed by title 18 of the United States Code, with respect to performance of functions under this Act.

Temporary suspension.

Summary revocation.

(7 U.S.C. 86).

REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES

Sec. 10. (a) The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection or the services related to weighing otherwise available under this Act with respect to any grain offered for such services, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.

Cause for action.

Responsible connection.

(b) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, or holder or owner of 10 per centum of more of its voting stock, or an employee in a managerial or executive capacity.

(c) In addition to, or in lieu of, penalities provided under section 14 of this Act, or in addition to, or in lieu, refusal of official inspection or services related to weighing in accordance with this section, the Administrator may assess against any person who has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed $75,000 for each such violation as the Administrator determines is appropriate to effectuate the objectives stated in section 2 of this Act.

Civil penalty.

(d) Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code: *Pro-*

vided, That the Administrator may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Administrator has reason to believe there is cause for refusal of inspection or services related to weighing and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

Hearing.

(e) Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Administrator may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 17 of this Act for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.

Disposition of civil penalties.

PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

(7 U.S.C. 87).

Sec. 11. (a) No person licensed or authorized by the Administrator to perform any official function under this Act, or employed by the Administrator in otherwise carrying out any of the provisions of this Act, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Administrator as involving a conflict of interest: *Provided, however,* That the Administrator may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Administrator may by regulation prescribe, and the Administrator may by regulation provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this Act.

Conflicts of interest of individuals.

Sampling exception.

(b)(1) No official agency or a State Agency delegated authority under this Act, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which he does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or

Conflicts of interest of agencies.

directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conduction such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

Substantial stockholder.

(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

Use of official inspection service.

(3) Each State agency delegated official weighing authority under section 7A and each State or local agency or other person designated by the Administrator under such section to perform official weighing or supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term *"use of official inspection service"* shall be deemed to refer to the use of the services provided under such a delegation or designation.

Specified officials.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Administrator shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

Exceptions.

(5) Notwithstanding the foregoing provisions of this subsection, the Administrator may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Administrator makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Administrator shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate, detailing the factual bases for such determination.

Report to Congress.

Exception for business of weighing grain.

(c) The provisions of this section shall not prevent an official agency or State agency delegated authority under this Act from engaging in the business of weighing grains.

(7 U.S.C 87a).

RECORDS

Requirements for agencies and licensees.

Sec. 12. (a) Every official agency, every State agency delegated authority under this Act; and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose

of administration and enforcement of this Act.

Maintenance.

(b) Every official agency, every State agency delegated authority under this Act, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided,* That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

Access
Audits.

(c) Every official agency, every State Agency delegated authority under this Act, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act required to maintain records under this section shall permit any authorized representative of the Secretary or Administrator or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Administrator shall, from time to time, perform audits of official agencies and State agencies delegated authority under this Act in such manner and at such periodic intervals as he deems appropriate.

Elevator and
merchandising
records.

(d) Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this Act, and permit any authorized representative of the Secretary or the Administrator, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

PROHIBITED ACTS

(7 U.S.C. 87b).

General.

Sec. 13. (a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official mark, or knowingly possess, without promptly notifying the Administrator or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including by not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this Act, or that any weighing service under this Act has been performed with respect to grain;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under the Act; or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this Act; or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;

(9) falsely represent that he is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this Act;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate any provision of section 5; 6; 7(f) (2), (3), or (4); 7A, 7B(c); 8; 11; 12; or 17A of this Act;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any

such person, from observing the loading of the grain inspected under this Act and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator.

Official inspection personnel.

(b) No person licensed or authorized to perform any function under this Act shall—

(1) commit any offense prohibited by subsection (a);

(2) knowingly perform improperly any official sampling or other official inspection or weighing function under this Act;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

CRIMINAL PENALTIES

(7 U.S.C. 87c).

Sec. 14. (a) Any person who commits an offense prohibited by section 13 (except an offense prohibited by paragraphs (a) (7), (a) (8), and (b) (4) in which case he shall be subject to the general penal statutes in title 18 of the United States Code relating to crimes and offenses against the United States) shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than $10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine.

Minor violations.

(b) Nothing in this Act shall be construed as requiring the Administrator to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 10 of this Act will obtain compliance with this Act and he institutes such a proceeding.

Protection of Federal employees.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.

RESPONSIBILITY FOR ACTS OF OTHERS

(7 U.S.C. 87d).

Sec. 15. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act,

omission, or failure of such association, partnership, or corporation as well as that of the person.

(7 U.S.C. 87e).

GENERAL AUTHORITIES

Scope.

Sec. 16. (a) The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this Act, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Administrator deems necessary to effectuate the purposes or provisions of this Act. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 of this Act for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5 of the United States Code.

Waiver of 5 U.S.C. 554, 556,557.

Procedures for investigation and action on abuse

(b) The Administrator is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this Act. The Administrator shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this Act, and (C) any complaint regarding the operation or administration of this Act or any official transaction with which this Act is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.

Monitoring.

(c) The administrator is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

(d) The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this Act or any official transaction with which this Act is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this Act. Investigations by OI.

(e) The Administrator is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain. Research program.

(f) To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 2 of this Act, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this Act. Adequate staffing.

PURCHASE OR LEASE OF INSPECTION EQUIPMENT

(7 U.S.C. 87e-1).

Notwithstanding the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on the date of enactment of this Act) to perform official inspection functions under the United States Grain Standards Act, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection. Authority.

ENFORCEMENT PROVISIONS

(7 U.S.C. 87f).

Sec. 17. (a) For the purposes of this Act, the Administrator shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Administrator shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation by the Administrator and may administer oaths and affirmations, examine witnesses, and receive evidence. Subpoena power.

(b) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena the Administrator may invoke the aid of any court designated in paragraph (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence. Court aid.

(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey such a subpoena issued to any person, issue an order requiring such person to appear before the Administrator or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey Court order for witnesses.

such order of the court may be punished by such court as a contempt thereof.

Fees and mileage.

(d) Witnesses summoned before the Administrator shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Refusal to testify, penalties.

(e) Any person who shall neglect or refuse to attend and testify; or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Administrator, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in subsection (a) of section 14 of this Act.

(f) [Repealed by section 203 of the Organized Crime Control Act of 1970, P.L. 91-452.]

(g) [Repealed by section 19 (d) of P.L. 94-582.]

Jurisdiction of courts.

(h) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this Act.

(7 U.S.C. 87f-1). **REGISTRATION REQUIREMENTS**

Requirements.

Sec. 17A. (a) The Administrator shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

Exceptions.

(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(2) any producer of grain who only incidentally or occasionally sells or transports grain which he has purchased;

(3) any person who transports grain for hire and does not own a financial interest in such grain; or

(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

Required information.

(b)(1) All persons required to register under this Act shall submit the following information to the Administrator:

(A) the name and principal address of the business,

(B) the names of all directors of such business,

(C) the names of the principal officers of such business,

(D) the names of all persons in a control relationship with respect to such business,

(E) a list of locations where the business conducts substantial operations, and

(F) such other information as the Administrator deems necessary to carry out the purposes of this Act.

Interstate commerce requirement.

Persons required to register under this section shall also submit to the Administrator the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such business, the person otherwise required to register under this section is in a control relationship.

Control relationship.

(2) For the purpose of this section, a person shall be deemed to be in a "*control relationship*" with respect to a business required to register under subsection (a) and with respect to applicable interstate businesses if—

(A) such person has an ownership interest of 10 per centum or more in such business, or

(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

Registration certificate.

(c) The Administrator shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b), the person holding such certificate shall, within thirty days of the discovery of such change, notify the Administrator of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or tranporting of grain in foreign commerce unless he has registered with the Administrator as required by this Act and has an unsuspended and unrevoked certificate of registration.

Suspension or revocation.

(d) The Administrator may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code, the Administrator shall determine that such person has violated any provision of this Act or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18 of the United States Code.

Fees.

Revolving fund.

(e) The Administrator shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Administrator in administering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 7(j) of this Act.

(7 U.S.C. 87f-2).

REPORTING REQUIREMENTS

Annual progress.

Sec. 17B. (a) The Administrator shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act, and, on December 1 of each year thereafter, the Administrator shall report to such committees regarding the effectiveness of the official inspection and weighing system under this Act for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 2 of this Act.

Thirty-day complaint.

(b) The Administrator shall notify the Committee of Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of the United States grain, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) notwithstanding the provisions of section 812 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c-3), within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

Complaints summary.

(c) On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided,* That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator.

(7 U.S.C. 87g).

RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

Conflict of laws.

Sec. 18. (a) No state or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon, the performance of any official inspection or weighing function under this Act by official inspection personnel. Otherwise nothing in this Act shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this Act.

(b) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

Separability clause.

APPROPRIATIONS

Sec. 19. There are hereby authorized and to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1981, and ending September 30, 1984, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act.

Authority.

(7 U.S.C. 79, 79a, 87f-i).

ADVISORY COMMITTEE

Sec. 20. (a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to the efficient and economical implementation of the United States Grain Standards Act of 1976. The advisory committee shall consist of not more than twelve members, appointed by the Secretary, representing the interests of all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this section.

Establishment. (7 U.S.C. 87i).

(7 U.S.C. 71 note).

(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act.

(5 U.S.C. app).

(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.